

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
)
Plaintiff,) 8:06 CR 391
)
)
v.)
)
)
CHRISTIANA DILLEY,) MEMORANDUM AND ORDER
)
)
Defendant.))

Defendant has filed a motion seeking to compel the government to produce evidence it intends to use pursuant to Fed. R. Evid. 404(b). The motion must be denied for two reasons.

First, there is nothing before the court indicating that a "request" for the information sought has been made to the prosecutor and refused. Rule 404(b) contemplates such a procedure before bringing a motion to compel the production. The government is obligated to produce the evidence on request of the defendant in preparation for trial. There is no indication the government has failed or refused to do so.

Second, the motion does not comply with the progression. The progression order states:

In the event that any motions are filed seeking bills of particulars or discovery of facts, documents, or evidence, as part of the motion the moving party shall recite that counsel for the movant has conferred with opposing counsel regarding the subject of the motion in an attempt to reach agreement on the contested matters without the involvement of the court and that such attempts have been unsuccessful. The motion shall further state the dates and times of any such conferences.

Filing 10, Para. 3. The motion contains no mention of such a conference having been held.

IT HEREBY IS ORDERED: The motion to compel, filing 16, is denied. The evidentiary hearing on the defendant's motion to suppress evidence, filing 18, will take place as scheduled on May 2, 2007 at 2:00 p.m. before the undersigned in Omaha.

DATED May 1, 2007

s/ *David L. Piester*
United States Magistrate Judge